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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,746	04/20/2004	Jerome J. Kochanski	KOCH-10131	5477
23123 7590 06/10/2009 SCHMEISER OLSEN & WATTS 18 E. UNIVERSITY DRIVE SUITE # 101 MESA, AZ 85201				
EXAMINER				
MARSH, STEVEN M				
ART UNIT		PAPER NUMBER		
3632				
MAIL DATE		DELIVERY MODE		
06/10/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/828,746

**Applicant(s)**

KOCHANSKI, JEROME J.

**Examiner**

STEVEN M. MARSH

**Art Unit**

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6, 8-14, 16-21 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-14, 16-21 and 23-25 is/are allowed.
- 6) ☒ Claim(s) 1-6, 8 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This is the fourth office action for U.S. Application 11/828,746 for a Hold Down Device filed on April 20, 2007. Claims 1-6, 8-14, 16-21, and 23-25 are pending

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,325,251 to Santos in view of U.S. Patent 6,138,853 to Frechette. Santos discloses a container (10) with a top portion, a bottom portion, a front end and a rear end. There is a handle (18) for carrying the device and a hose recess (inside of the container) with a right wall, a left wall, an upper wall, and an opening (at 32 for receiving 28, 29) on the front end of the container. The hose recess extends from the front end to the rear end of the container and receives a discharge hose (29) between the right wall, left wall, upper wall, and a ground surface. The container is adapted to hold down the discharge hose during draining and the container is hollow and made of a solid material of sufficient weight for holding down the hose and the container is configured to be filled and emptied with a filling material for varying the weight of the device. The container is configured to vertically stack two containers for added weight to hold down the hose and configured to be stored by wrapping the hose around the container. The handle is

integral with the top portion of the container and configured to allow the discharge hose to wrap around it and the hose recess is configured to receive the discharge hose between the right wall, left wall, upper wall and rear wall. There is a fill hole (at 48) on the top portion of the container for filling and emptying the container with a filling material, and a plug (48) removably coupled to the fill hole for retaining the material within the container.

Santos does not disclose feet coupled to the bottom of the container. Frechette disclose a fuel container with feet (3) made of a non-slip material coupled to the bottom of the container for resting the container on a surface. The feet are a circular molded relief protruding from the bottom of the container and could rest over a splash ring coupled to a sewer fitting. It would have been obvious to one of ordinary skill in the art to use the non-slip feet at the bottom of the container taught by Santos to rest the container on a surface as taught by Frechette. Using the known technique of providing feet on the container for resting the container of Santos on a surface would have been obvious to one of ordinary skill.

#### ***Allowable Subject Matter***

Claims 10-14, 16-21, and 23-25 are allowed.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **STEVEN M. MARSH** whose telephone number is (571)272-6819. The examiner can normally be reached on 8:30 am - 7:00 pm (Monday-Thursday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J Allen Shriver can be reached on 571-272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. M. M./  
Examiner, Art Unit 3632  
June 5, 2009

/J. ALLEN SHRIVER II/  
Supervisory Patent Examiner, Art Unit 3632